

AMENDED IN SENATE AUGUST 29, 2006

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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2936**

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**Introduced by Assembly Member Ridley-Thomas**

February 24, 2006

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An act to amend Section 20035.1 of, and to add Sections 19825.5 and 21428.1 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2936, as amended, Ridley-Thomas. State employees: excluded employees: memorandum of understanding: State Bargaining Unit 5.

(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of the memorandum of understanding entered into between the state employer and State Bargaining Unit 5, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would further provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are

specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memorandum if funds for those provisions are not specifically appropriated by the Legislature.

(2) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.

Existing law provides that final compensation for certain patrol members, including patrol members in State Bargaining Unit 5, for specified patrol service shall be increased by 4% if the member retires or dies on or after July 1, 2001, but prior to July 1, 2004, and shall be increased by 8% if the member retires or dies on or after July 1, 2004.

This bill would provide that final compensation for these patrol members shall be increased by 6% if the member retires or dies on or after July 1, 2007, but prior to July 1, 2008, by 4% if the member retires or dies on or after July 1, 2008, but prior to July 1, 2009, and by 2% if the member retires or dies on or after July 1, 2009, but prior to July 1, 2010.

(3) Under existing law, a patrol member shall receive, upon retirement for industrial disability, a disability retirement allowance of 50% of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

This bill instead would provide, upon retirement of a patrol member for industrial disability as the result of a single event that results in serious bodily injury, the member shall receive the higher of the allowance provided above, or, except as specified, a disability allowance equal to 3% of his or her final compensation multiplied by the number of years of patrol service credited to him or her plus an annuity purchased with his or her accumulated additional contributions, if any. The bill would provide that the cumulative benefit provided pursuant to this provision, when combined with other specified service, shall not exceed 90% of final compensation.

(4) Under existing law, whenever any state agency is authorized by statute to fix the salary or compensation of an employee or officer, and the salary is payable in whole or in part out of state funds, the salary is subject only to the approval of the Department of Personnel Administration before it becomes effective and payable, except as specified.

This bill would authorize the department to set and adjust, as needed, the annual compensation of various state commissioners and directors and other state officers, as specified. The bill would require the department to notify the Legislature of the compensation level implemented within 30 days of the effective date of the proposed compensation adjustment.

(5) The bill would include related findings and declarations.

(6) This bill would also appropriate ~~\$143,605,000~~ \$173,103,000 from the General Fund and other unallocated funds for expenditure for the 2006–07 fiscal year for state employee compensation for State Bargaining Unit 5 and the State of California excluded pay program and mileage adjustment for various collective bargaining units that have been previously approved or pending approval, in augmentation of the Budget Act of 2006, as specified.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares that a  
2     purpose of this act is to approve an agreement pursuant to  
3     Section 3517 of the Government Code entered into by the state  
4     employer and State Bargaining Unit 5, California Association of  
5     Highway Patrolmen (CAHP), on July 28, 2006, that requires the  
6     expenditure of funds.  
7     SEC. 2. The provisions of the memorandum of understanding  
8     prepared pursuant to Section 3517.5 of the Government Code  
9     and entered into by the state employer and State Bargaining Unit  
10    5, California Association of Highway Patrolmen (CAHP), and  
11    that require the expenditure of funds, are hereby approved for the  
12    purposes of Section 3517.6 of the Government Code.

1 SEC. 3. The provisions of the memorandum of understanding  
2 approved by Section 2 of this act that are scheduled to take effect  
3 on or after July 3, 2006, and that require the expenditure of  
4 funds, shall not take effect unless funds for these provisions are  
5 specifically appropriated by the Legislature. If the Legislature  
6 does not approve or fully fund any provision of the memorandum  
7 of understanding that requires the expenditure of funds, either  
8 party may reopen negotiations on all or part of the memorandum  
9 of understanding.

10 SEC. 4. Notwithstanding Section 3517.6 of the Government  
11 Code, the provisions of any memorandum of understanding  
12 included in Section 2 of this act that require the expenditure of  
13 funds shall become effective even if the provisions of the  
14 memorandum of understanding are approved by the Legislature  
15 in legislation other than the annual Budget Act.

16 SEC. 5. Section 19825.5 is added to the Government Code, to  
17 read:

18 19825.5. (a) Notwithstanding Sections 11550, 11552, and  
19 11554, the department shall set and adjust, as needed, the annual  
20 compensation of the officers and employees listed in Sections  
21 11550, 11552, and 11554.

22 (b) When setting or adjusting the annual compensation of the  
23 employees described in subdivision (a), the department shall  
24 consider the size and scope of the organization, compensation  
25 paid to other similar positions in other public jurisdictions, the  
26 scope of responsibility of the position, the need to avoid salary  
27 compaction, and other factors appropriate to the determination of  
28 compensation necessary to recruit and retain qualified employees  
29 in leadership positions for the state. The compensation shall not  
30 exceed 125 percent of the compensation recommended to be paid  
31 to the Governor of the State of California by the California  
32 Citizens Compensation Commission.

33 (c) The department shall notify the Legislature of the  
34 compensation level implemented for any of the employees  
35 described in subdivision (a) within 30 days of the effective date  
36 of the proposed compensation adjustment.

37 SEC. 6. Section 20035.1 of the Government Code is amended  
38 to read:

39 20035.1. For patrol members in State Bargaining Unit 5,  
40 patrol members excepted from the definition of "state employee"

1 in subdivision (c) of Section 3513, and patrol members who are  
2 officers or employees of the executive branch of state  
3 government who are not members of the civil service, the  
4 member's final compensation shall be increased as follows:

5 (a) For a member who retires or dies on or after July 1, 2001,  
6 and prior to July 1, 2004, the member's final compensation for  
7 patrol service subject to Section 21362.2 shall be increased by  
8 one-half of the normal rate of contribution specified in  
9 subdivision (a) of Section 20681.

10 (b) For a member who retires or dies on or after July 1, 2004,  
11 and prior to July 1, 2007, the member's final compensation for  
12 patrol service subject to Section 21362.2 shall be increased by  
13 the normal rate of contribution specified in subdivision (a) of  
14 Section 20681.

15 (c) For a member who retires or dies on or after July 1, 2007,  
16 and prior to July 1, 2008, the member's final compensation for  
17 patrol service subject to Section 21362.2 shall be increased by  
18 three-fourths of the normal rate of contribution specified in  
19 subdivision (a) of Section 20681.

20 (d) For a member who retires or dies on or after July 1, 2008,  
21 and prior to July 1, 2009, the member's final compensation for  
22 patrol service subject to Section 21362.2 shall be increased by  
23 one-half of the normal rate of contribution specified in  
24 subdivision (a) of Section 20681.

25 (e) For a member who retires or dies on or after July 1, 2009,  
26 and prior to July 1, 2010, the member's final compensation for  
27 patrol service subject to Section 21362.2 shall be increased by  
28 one-fourth of the normal rate of contribution specified in  
29 subdivision (a) of Section 20681.

30 (f) This section shall remain in effect only until July 1, 2010,  
31 and as of January 1, 2011, is repealed, unless a later enacted  
32 statute, that is enacted before January 1, 2011, deletes or extends  
33 that date.

34 SEC. 7. Section 21428.1 is added to the Government Code, to  
35 read:

36 21428.1. (a) Upon retirement of a patrol member for  
37 industrial disability as the result of a single event that results in  
38 serious bodily injury, the member shall receive the higher of the  
39 allowance provided by Section 21406, or, the disability  
40 allowance otherwise provided pursuant to this section equal to 3

1 percent of his or her final compensation multiplied by the  
2 number of years of patrol service credited to him or her plus an  
3 annuity purchased with his or her accumulated additional  
4 contributions, if any. This section shall not apply to a disability  
5 that manifests more than six months after the effective date for  
6 the industrial disability retirement. This section does not entitle  
7 the member to an industrial disability retirement if the member  
8 would not otherwise be eligible for an industrial disability  
9 retirement.

10 (b) This section shall apply only to serious bodily injuries, and  
11 shall not be applied to disabilities that are the result of any of the  
12 following:

13 (1) Cumulative trauma.

14 (2) Cumulative injuries, including, but not limited to, heart  
15 conditions, stroke, stress, anxiety, or diabetes.

16 (3) Presumptive injuries or illnesses as described in Chapter 1  
17 (commencing with Section 3200) of Part 1 of Division 4 of the  
18 Labor Code.

19 (4) Stress-related disabilities.

20 (5) Physical disability having mental origin.

21 (c) If a patrol member has other service credit as a state peace  
22 officer/firefighter member, state safety member, local safety  
23 member, state miscellaneous, state industrial, or local  
24 miscellaneous member under this system, the cumulative benefit  
25 pursuant to this section, including an annuity purchased with his  
26 or her accumulated contributions, shall not exceed 90 percent of  
27 final compensation.

28 (d) For purposes of this section, “serious bodily injury”  
29 includes any of the following:

30 (1) Total loss of sight in one or both eyes.

31 (2) Total loss of hearing in both ears.

32 (3) Amputation or total loss of function in a hand, arm, foot, or  
33 leg.

34 (4) A spinal cord injury resulting in paralysis which causes the  
35 complete loss of function in a hand, arm, foot, or leg.

36 (5) Physical injury to the brain resulting in serious cognitive  
37 disorders or paralysis which causes the complete loss of function  
38 in a hand, arm, foot, or leg.

39 (6) Injury to a major internal organ which substantially limits  
40 one or more “major life activities.” Major life activities are

1 functions such as caring for oneself, performing manual tasks,  
2 walking, seeing, hearing, breathing, learning, and performing  
3 substantial gainful employment.

4 (7) Any other serious physical injury that results in the  
5 inability to perform substantial gainful employment.

6 (e) This section applies only to those patrol members who are  
7 described by at least one of the following:

8 (1) Employed in a state bargaining unit for which a  
9 memorandum of understanding has been agreed to by the state  
10 employer and the recognized employee organization to become  
11 subject to this section.

12 (2) Excluded from the definition of state employee in  
13 subdivision (c) of Section 3513.

14 (3) Employed by the executive branch of government and not  
15 a member of the civil service.

16 (f) In the event of a dispute regarding the applicability of this  
17 section, the board shall proceed with retirement pursuant to any  
18 other section that may apply and with the payment of any  
19 benefits that are payable pursuant to any other section when this  
20 section is not applicable. If the board subsequently determines  
21 that this section is applicable, an amount equal to the benefits  
22 paid shall be deducted from the benefits payable pursuant to this  
23 section because of the determination.

24 SEC. 8. The Legislature further finds and declares that,  
25 pursuant to Government Code 19826, a purpose of this act is to  
26 approve adjustments to salary ranges for employees exempt from  
27 the definition of state employee in subdivision (c) of Section  
28 3513 *and state employees of the Judicial Branch*, and  
29 adjustments to mileage reimbursements for various bargaining  
30 units with approved or pending memoranda of understanding that  
31 require the expenditure of funds.

32 SEC. 9. The sum of one hundred ~~forty-three million six~~  
33 ~~hundred five thousand dollars (\$143,605,000)~~ *seventy-three*  
34 *million one hundred three thousand dollars (\$173,103,000)* is  
35 hereby appropriated for expenditure in the 2006–07 fiscal year in  
36 augmentation of, and for the purpose of, state employee  
37 compensation for State Bargaining Unit 5, California Association  
38 of Highway Patrolmen (CAHP), and the State of California  
39 excluded pay program and mileage adjustment for various  
40 collective bargaining units that have been previously approved or

1 pending approval, as provided in Items 9800-001-0001,  
2 9800-001-0494, and 9800-001-0988 of Section 2.00 of the  
3 Budget Act of 2006 in accordance to the following schedule:

4 (a) ~~Forty-seven million three hundred thirty-six thousand~~  
5 ~~dollars (\$47,336,000)~~ *Sixty-five million three hundred fifty-three*  
6 *thousand dollars (\$65,353,000)* from the General Fund in  
7 augmentation of Item 9800-001-0001.

8 (b) ~~Sixty-one million six hundred twelve thousand dollars~~  
9 ~~(\$61,612,000)~~ *Sixty-eight million nine hundred sixty thousand*  
10 *dollars (\$68,960,000)* from unallocated special funds in  
11 augmentation of Item 9800-001-0494. Of this amount, thirty-four  
12 million two hundred thousand dollars (\$34,200,000) shall satisfy  
13 the terms of the agreement between the state and the California  
14 Association of Highway Patrolmen.

15 (c) ~~Thirty-four million six hundred fifty-seven thousand~~  
16 ~~dollars (\$34,657,000)~~ *Thirty-eight million seven hundred ninety*  
17 *thousand dollars (\$38,790,000)* from other unallocated  
18 nongovernmental cost funds in augmentation of Item  
19 9800-001-0988.

20 SEC. 10. This act is an urgency statute necessary for the  
21 immediate preservation of the public peace, health, or safety  
22 within the meaning of Article IV of the Constitution and shall go  
23 into immediate effect. The facts constituting the necessity are:

24 In order for the provisions of this act to be applicable as soon  
25 as possible in the 2006–2007 fiscal year and thereby facilitate the  
26 orderly administration of state government at the earliest possible  
27 time; it is necessary that this act take effect immediately.